

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AMERICAN CHEMISTRY COUNCIL,
Petitioner

v.

OCCUPATIONAL SAFETY &
HEALTH ADMINISTRATION, and
DEPARTMENT OF LABOR,
Respondent.

Case No. 15-1252

(Now Consolidated with
Case No. 15-1253)

MOTION FOR LEAVE TO INTERVENE

Pursuant to 28 U.S.C. § 2348, 47 U.S.C. § 402(e), and Rule 15(d) of the Federal Rules of Appellate Procedure, the National Association of Chemical Distributors (“NACD”) hereby files this Motion for Leave to Intervene. Pursuant to D.C. Circuit Rule 15(b), NACD’s motion serves as a motion to intervene in this and all current and future consolidated matters related to this case. As discussed below, NACD is entitled to intervene as of right because NACD’s interests would be adversely affected by the rule promulgated by Respondent, the Occupational Safety and Health Administration (“OSHA”).

NACD represents to the Court that Petitioner American Chemistry Council consents to this Motion for Leave to Intervene. The Department of Labor has advised undersigned counsel for NACD that the government will not oppose this Motion for Leave to Intervene.

Background

Petitioner American Chemistry Council, a national trade associations representing the interests of chemical manufacturers, has petitioned the court for review of OSHA's Memorandum dated June 5, 2015, addressing "Process Safety Management of Highly Hazardous Chemicals and Covered Concentrations of Listed Appendix A Chemicals" ("Memorandum"). A copy of the Memorandum was attached to Petitioner American Chemistry Council's Petition as Appendix A.

NACD's Interest in the Case

NACD represents its member companies which include national, regional and local companies involved in the storage, packing, blending and distribution of chemicals for suppliers and manufacturers of chemicals. The Memorandum will have substantially the same impact on NACD member companies as it will have on the member companies of the Petitioner. The majority of NACD member companies are small businesses within small geographic areas. These small businesses will be particularly adversely impacted by the Memorandum.

NACD's interest will be substantially affected by this Court's review of OSHA's Memorandum, and NACD is entitled to intervene as of right pursuant to 28 U.S.C. §2348 and 47 U.S.C. § 402(e).

NACD respectfully requests that this Court grant its Motion for Leave to Intervene in support of Petition for Review filed by the American Chemistry Council.

Respectfully Submitted,

/s/ Jerome Schaefer

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August 31, 2015

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CERTIFICATE AS TO THE PARTIES

Pursuant to D.C. Circuit Rule 27(a)(4) and D.C. Circuit Rule 28(a)(1)(A), the National Association of Chemical Distributors (“NACD”) hereby certifies the following:

In Case No. 15-1252, the Petitioner is American Chemistry Council and the Respondents are Occupational Safety & Health Administration and Department of Labor. NACD seeks leave to intervene in this matter in support of the Petitioner. No amici have appeared before the Court in this matter.

Respectfully Submitted,

/s/ Jerome Schaefer

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 26.1, the National Association of Chemical Distributors (“NACD”) submits the following corporate disclosure statement.

NACD is a non-profit member trade association, tax exempt under section 501(c)(6) of the Internal Revenue Code, and incorporated in Illinois. NACD has no parent company; there are no outstanding shares or debt securities in the hands of the public; and no publicly-held corporation owns stock or other interest in NACD.

Respectfully Submitted,

/s/ Jerome Schaefer

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CERTIFICATE OF SERVICE

I certify that on behalf of the National Association of Chemical Distributors, I electronically filed the foregoing Motion for Leave to Intervene with the Clerk of the Court for the U.S. Court of Appeals for the D.C. Circuit by using the CM/ECF system on August 31, 2015.

I further certify that I directed that copies of the foregoing Motion for Leave to Intervene be served on the following counsel by electronic service via CM/ECF:

Jonathan L. Snare, Esq.
Michael W. Steinberg, Esq.
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Edwin Donald Elliott, Esq.
David M. Zions, Esq.
Covington & Burling LLP
One City Center
850 Tenth Street, NW
Washington, DC 20001-4956

I also certify that copies of the foregoing Motion for Leave to Intervene has been served by first-class mail to the following individuals:

Lauren Goodman, Esq.
Charles James, Esq.
U.S. Department of Labor, Office of the Solicitor
Division of Occupational Safety & Health
200 Constitution Avenue, N.W.
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Washington, DC 20210

Respectfully Submitted,

/s/ Jerome Schaefer

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ORDER

Upon Consideration of the Motion for Leave to Intervene by the National Association of Chemical Distributors, it is thereupon this _____ day of _____, 2015,

Ordered that National Association of Chemical Distributors be, and is hereby, granted leave to intervene in this case as a Petitioner.

JUDGE, UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF
COLUMBIA